MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

205.201 Inheritance tax; taxable transfers; residents; nonresidents; transfer in contemplation of death; presumption; power of appointment; personal property exemption; conditions; exception; exemption of property passing to trustee of trust agreement or deed under terms of contract of insurance; unincorporated foundation; winding up; exemption of foreign benevolent, charitable, religious, or educational entities; reciprocity; effective date of exemption; refund; exemption of transfer to surviving spouse; conditions; definitions.

Sec. 1. (1) A tax is imposed upon the transfer of any property, real or personal, of the value of $100.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, not exempt by law in this state from taxation on real or personal property or not heretofore or hereafter existing within this state as incorporated foundations or not heretofore existing within this state as established nonprofit unincorporated foundations operated exclusively for benevolent, charitable, or educational purposes, in the following cases:

(a) When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of this state.

(b) When the transfer is by will or intestate law of property within the state, and the decedent was a nonresident of the state at the time of his or her death.

(c) When the transfer is of property made by a resident or by nonresident, when the nonresident's property is within this state, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor or intended to take effect, in possession or enjoyment at or after such death. Any transfer of a material part of this property in the nature of a final disposition or distribution made by the decedent within 2 years prior to his or her death, except in case of a bona fide sale for a fair consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section. The tax shall also be imposed when any such grantee, vendee, or donee becomes beneficially entitled in possession or expectancy to any property or the income of the property by any such transfer, whether made before or after the passage of this act.

(d) Whenever any person or persons, corporation or association, whether voluntary or organized pursuant to law, shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, the appointment when made shall be deemed a transfer taxable under this act in the same manner as though the property to which the appointment relates belonged absolutely to the donee of the power and had been bequeathed or devised to the donee by will; and whenever any person or persons, corporation or association, whether voluntary or organized pursuant to law, possessing such a power of appointment so derived shall omit or fail to exercise the power of appointment within the time provided, in whole or in part, a transfer taxable under this act shall be deemed to take place to the extent of the omission or failure, in the same manner as though the person or persons, corporation or association thereby becoming entitled to the possession or enjoyment of the property to which the power related had succeeded thereto by a will of the donee of the power failing to exercise the power, taking effect at the time of the omission or failure. This subdivision is construed so that the exercise of a power of appointment or the omission or failure to exercise a power of appointment does not constitute a taxable transfer under this act if the transfer, by the donor of the power, of the property to which the appointment relates is not described within subdivision (a), (b), or (c).

(2) Notwithstanding subsection (1), a tax shall not be imposed in respect of personal property, except tangible personal property having an actual situs in this state, if 1 of the following apply:

(a) The transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in that state or territory or foreign country.

(b) If the laws of the state, territory, or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property, except tangible personal property having an actual situs therein, provided the state, territory, or country of residence of such nonresidents allowed a similar exemption to residents of the state, territory, or country of residence of the transferor. For the purposes of this section the District of Columbia and possessions of the United States shall be considered territories of the United States. As used in this subsection, “foreign country” and “country” mean both any foreign country and any political subdivision of that country, and either of them of which the transferor was domiciled at the

time of his or her death. For the purposes of this section, “tangible personal property” shall be construed to exclude all property commonly classed as intangible personal property, such as deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and like incorporeal personal property.

(3) Notwithstanding subsection (1), a tax shall not be imposed in respect of property passing to a trustee or trustees of any trust agreement or trust deed heretofore or hereafter executed by a resident or nonresident decedent by virtue of or under the terms and provisions of any contract or contracts of insurance heretofore or hereafter in force, insuring the life of such decedent, and paid or payable at or after the death of the decedent to the trustee or trustees for the benefit of a beneficiary or beneficiaries having any present or future, vested, contingent, or defeasible interest under such trust deed or trust agreement.

(4) If an unincorporated foundation provided tax exempt status by subsection (1) ceases to operate if its funds are diverted from the lawful purposes of its organization, or if it becomes unable to lawfully serve its purposes, the legislature may by law provide for the winding up of its affairs and for the conservation and disposition of its property, in such way as may best promote and perpetuate the purposes for which the unincorporated foundation was originally organized.

(5) Every transfer to any corporation, society, institution, or person or persons, or association of persons for benevolent, charitable, religious, or educational purposes, organized, existing, or operating under the laws of or within a state or territory of the United States, other than this state, or of the District of Columbia, also shall be exempt from taxation under this act, if at the date of the transfer which, excepting as to gifts by living persons, shall be deemed to be the date of decedent's death, the laws of the state or territory or of the District of Columbia, under which such corporation, society, institution, person or persons, or association of persons was organized, existing, or operating did not impose a death tax of any character in respect to property transferred to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of or within this state, or if at the date of the transfer the laws of the state or territory or of the District of Columbia contained a reciprocal provision under which such a transfer to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of or within another state or territory or of the District of Columbia were exempted from death taxes of every character, if the other state or territory or of the District of Columbia allowed a similar exemption to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of another state or territory or of the District of Columbia.

The exemption provided in this subsection shall be effective with respect to transfers from decedents whose death occurred on or after May 1, 1950. Any tax previously paid on transfers made exempt by this subsection shall be refunded.

(6) Notwithstanding subsection (1), but subject to subsection (7), if the decedent dies after December 31, 1982 and if the decedent makes or has made a transfer otherwise subject to tax under this act to the surviving spouse of the decedent or to the surviving spouse of the decedent and another person or persons, and if this transfer qualifies for the marital deduction for purposes of the federal estate tax in the estate of the decedent or if this transfer would have qualified for the federal estate tax marital deduction if the transfer had been included in the gross estate of the decedent for purposes of the federal estate tax, the transfer, using values as finally determined for purposes of this act, shall be exempt from taxation under this act.

(7) The exemption provided by subsection (6) shall be subject to the following:

(a) On the death of the first spouse to die, if the executor properly elects to treat a transfer or specific portion of a transfer as qualified terminable interest property, then on the death of the surviving spouse, the transfer of qualified terminable interest property, using values on the death of the surviving spouse, shall be considered a transfer of the surviving spouse subject to subsection (1). For purposes of determining tax rates and exemptions applicable to such transfer, the relationship of each successor on the death of the surviving spouse shall be to the spouse to which the successor bears the closer relationship, and other transfers from the surviving spouse to such successors shall be taken into account first. If the executor is not required by federal law to file a federal estate tax return, the provisions in this subsection will apply if the executor makes an irrevocable election to have them apply on or before 9 months after the date of decedent's death, and files such election on or before that date with the revenue division of the department of treasury.

(b) If a transfer to the surviving spouse, or to the surviving spouse and other persons, is of an interest in a group of assets not all of which are subject to tax under this act, for purposes of the application of subsection (6), on the death of the first spouse to die, the surviving spouse or the surviving spouse and others persons, shall be considered to have received a pro rata portion of the group of assets in the same proportion that the value of that portion of the group of assets not subject to tax under this act bears to the value of the entire group of assets.

(8) For purposes of subsections (6) and (7):

(a) "Executor" means that term as defined by section 2203 of the internal revenue code.

(b) "Qualified terminable interest property" means a transfer or a specific portion of a transfer which the executor elects to treat as qualified terminable interest property, as that term is defined by section 2056(b)(7) of the internal revenue code, for purposes of the federal estate tax or for purposes of subsection (7), to the extent subsections (6) and (7) apply to the transfer or specific portion of the transfer.

(c) The inheritance tax imposed on the estate of the surviving spouse with respect to qualified terminable interest property shall be paid from qualified terminable interest property unless the surviving spouse's will specifically provides otherwise.

History: 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14524;—Am. 1919, Act 148, Eff. Aug. 14, 1919;—Am. 1923, Act 257, Eff. Aug. 30, 1923;—Am. 1929, Act 231, Imd. Eff. May 21, 1929;—CL 1929, 3672;—Am. 1941, Act 302, Eff. Jan. 10, 1942;—CL 1948, 205.201;—Am. 1949, Act 177, Eff. Sept. 23, 1949;—Am. 1951, Act 75, Imd. Eff. May 28, 1951;—Am. 1962, Act 168, Eff. Mar. 28, 1963;—Am. 1982, Act 351, Imd. Eff. Dec. 21, 1982;—Am. 1992, Act 65, Imd. Eff. May 28, 1992.

Compiler's note: For applicability of section, see § 205.223(a).

Popular name: Inheritance Tax

MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

205.201a Death taxes of estates of non-resident decedents; executor or administrator; duties; filing and form of proof; notice to domiciliary state; final account; applicability; construction.

Sec. 1a. (1) The terms "death tax" and "death taxes", as used in the 5 following subsections, include inheritance, succession, transfer and estate taxes and any taxes levied against the estate of a decedent upon the occasion of his or her death.

(2) Before the expiration of 18 months after the qualification in any probate court in this state of any executor of the will or administrator of the estate of any non-resident decedent, the executor or administrator shall file with the court proof that all death taxes, together with interest or penalties on those taxes, which are due to the state of domicile of the decedent, or to any political subdivision, have been paid or secured, or that no taxes, interest, or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of the decedent in the state of his or her domicile, in subsections (3), (4), (5), or (6), called the domiciliary state.

(3) The proof required by subsection (2) may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If that proof has not been filed within the time limited in subsection (2), and if within that time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall immediately upon the expiration of the time notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws with respect to that estate, and shall state in the notice so far as is known to him or her the name, date of death, and last domicile of the decedent, the name and address of each executor or administrator, a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to the decedent at the time of his or her death, and the fact that the executor or administrator has not filed the proof required in subsection (2). The register shall attach to the notice a plain copy of the will and codicils of the decedent, if he or she died testate, or, if he or she died intestate, a list of his or her heirs and next of kin, so far as is known to such register. Within 60 days after the mailing of the notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with the probate court in this state a petition for an accounting in the estate, and the official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning the probate court for the accounting. If the petition is filed within 60 days, the probate court shall order an accounting. When the accounting is filed and approved, the probate court shall decree either the payment of any tax found to be due to the domiciliary state or subdivision of that state or the remission to a fiduciary, appointed or to be appointed by the probate court or other court charged with the administration of estates of decedents of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

(4) No final account of an executor or administrator of a non-resident decedent shall be allowed unless 1 of the following applies:

(a) Proof has been filed as required by subsection (2).

(b) Notice under subsection (3) has been given to the official or body charged with the administration of the death tax laws of the domiciliary state, and either of the following applies:

(*i*) That official or body has not petitioned for an accounting under subsection (3) within 60 days after the mailing of the notice.

(*ii*) An accounting has been had under subsection (3), a decree has been made upon the accounting, and it appears that the executor or administrator has paid the sums and remitted such securities, if any, as he was required to pay or remit by such decree.

(c) It appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under subsection (3).

(5) Subsections (1) to (4), inclusive, shall apply to the estate of a non-resident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance, as finally determined by the state treasurer, of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this state, when the estates are administered in whole or in part by a probate court, or other court charged with the administration of estates of decedents, in such other state.

(6) Subsections (1) to (5) shall be liberally construed in order to ensure that the domiciliary state of any non-resident decedent whose estate is administered in this state shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of the decedent.

History: Add. 1937, Act 76, Eff. Oct. 29, 1937;—CL 1948, 205.201a;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

Compiler's note: For applicability of section, see § 205.223(a).

Popular name: Inheritance Tax

MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

205.208 Bequest to executors or trustees subject to tax.

Sec. 8. If a testator bequeath or devise his property to 1 or more executors or trustees in lieu of their commissions or allowances, to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised above the amount of commissions or allowances prescribed by law shall be taxable under this act.

History: 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14531;—CL 1929, 3680;—CL 1948, 205.208.

Compiler's note: For applicability of section, see § 205.223(a).

Popular name: Inheritance Tax

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.3 Real property; parties assessable; persons treated as owner; property of deceased persons.

Sec. 3. Real property shall be assessed in the township or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown. A trustee, guardian, executor, administrator, assignee or agent, having control or possession of real property, may be treated as the owner. The real property which belonged to a person deceased, not being in control of an executor or administrator, may be assessed to his heirs or devisees jointly, without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate.

History: 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3826;—CL 1915, 3997;—CL 1929, 3391;—CL 1948, 211.3.

Popular name: Act 206

THE GENERAL PROPERTY TAX ACT (EXCERPT)
Act 206 of 1893

211.101-211.103 Repealed. 2005, Act 183, Eff. Dec. 31, 2006.

Compiler's note: The repealed sections pertained to execution of deed in name of deceased person, delinquent tax return to department of natural resources, and requirements for statement of taxes paid.

Popular name: Act 206

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

487.3424 Fiduciary powers; considerations.

Sec. 424. (1) In passing upon applications for permission to exercise full fiduciary powers under section 421, the commissioner shall take into consideration the following, and he or she may grant or refuse the application accordingly:

(a) The sufficiency of the capital and surplus of the applying savings bank.

(b) Any other facts or circumstances that he or she deems proper.

(2) Without regard to the capital and surplus requirements under subsection (1), the commissioner may grant to a savings bank the limited trust power to act as executor, administrator, custodian, conservator, guardian, or to serve as a testamentary trustee.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

SAVINGS AND LOAN ACT OF 1980 (EXCERPT)
Act 307 of 1980

491.622 Savings account in name of fiduciary in trust for named beneficiary or in name of nominee or escrow agent; powers of record owner; payment or delivery; release and discharge; death of fiduciary; payment or delivery to beneficiary or beneficiary's estate; death of trustee; payment or delivery to designated beneficial owner.

Sec. 622. An association or a federal association may accept savings accounts in the name of an administrator, personal representative, custodian, executor, guardian, trustee, or other fiduciary in trust for a named beneficiary or in the name of a nominee or an escrow agent. The record owner shall have all powers with respect to the account as if the account were owned by the record owner absolutely, to open, to make additions to, and to withdraw funds from the account in whole or in part. The withdrawal value of the account, and interest on the account, or other rights relating to the account may be paid or delivered, in whole or in part, to the fiduciary without regard to any notice to the contrary if the fiduciary is living. The payment or delivery to the fiduciary or a receipt or acquittance signed by the fiduciary to whom a payment or delivery of rights is made is a valid and sufficient release and discharge of an association for the payment or delivery made. If a person holding an account in a fiduciary capacity dies and written notice of the revocation or termination of the fiduciary relationship has not been given to an association and the association does not have notice of any other disposition of the beneficial estate, the withdrawal value of the account, and interest on the account, or other rights relating to the account, at the option of the association, may be paid or delivered, in whole or in part, to the beneficiary or, if the beneficiary has also died, to the beneficiary's estate. If an account is opened by a person, describing himself or herself in opening the account as trustee for the benefit of another person and other or further notice of the existence and terms of a legal and valid trust has not been given in writing to the association, in the event of the death of the person described as trustee, the withdrawal value of the account or a part of the account, together with dividends or interest on the account, may be paid to the beneficial owner for whom the account was stated to have been opened, and the account and all additions to the account shall be the property of the beneficial owner. Payment or delivery to a designated beneficial owner, or a receipt or acquittance signed by a designated beneficial owner, is a valid and sufficient release and discharge of an association for the payment or delivery made.

History: 1980, Act 307, Eff. Jan. 1, 1981.

COLLECTIVE INVESTMENT FUNDS ACT (EXCERPT)
Act 174 of 1941

555.101 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "collective investment funds act".

(2) As used in this act:

(a) "Collective investment fund" means a fund maintained by a financial institution or by 1 or more affiliated financial institutions that consists solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts that are exempt from federal income tax.

(b) "Common trust fund" means a fund maintained by a financial institution or 1 or more affiliated financial institutions exclusively for the collective investment and reinvestment of money contributed to the fund by the financial institution or the affiliated financial institutions in its capacity as a fiduciary or cofiduciary.

(c) "Fiduciary" means a financial institution or other person acting in the capacity of guardian, conservator, personal representative, or trustee, either solely or together with others, or custodian under a uniform gift or transfer to minors act of any state.

(d) "Financial institution" means any of the following:

(*i*) A state bank, national bank, state or federally chartered savings and loan association or savings bank that is authorized to act in a fiduciary capacity in this state.

(*ii*) A wholly owned subsidiary of an entity described in subparagraph (*i*) that is authorized to act in a fiduciary capacity in this state.

(*iii*) An entity authorized to act in a fiduciary capacity in any other state that is a member of an affiliated group within the meaning of section 1504 of the internal revenue code of 1986 that includes any of the entities described in subparagraph (*i*) or (*ii*).

(e) "Fund" means a common trust fund or a collective investment fund.

(f) "Plan" means the written plan for a fund described in section 4.

History: 1941, Act 174, Eff. Jan. 10, 1942;—CL 1948, 555.101;—Am. 1978, Act 433, Imd. Eff. Oct. 5, 1978;—Am. 1984, Act 101, Imd. Eff. May 8, 1984;—Am. 2004, Act 586, Imd. Eff. Jan. 4, 2005.

Popular name: Common Trust Fund Act

MICHIGAN COMMUNITY PROPERTY ACT (EXCERPT)
Act 317 of 1947

****** 557.213 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. ******

557.213 Community property; disposition upon death of either husband or wife; administration of estate; procedure.

Sec. 13. (a) Upon the death of the husband or the wife, 1/2 of the community property shall continue to belong to the surviving spouse and the other 1/2 shall pass in accordance with testamentary disposition by the deceased spouse, or, in the absence of testamentary disposition, then to the heirs at law and distributees of the deceased spouse in the manner provided by law, subject to the following provisions of this section.

(b) The executor of the will or the administrator of the estate of the deceased spouse shall administer all of the community property which stands in the name of the deceased spouse, including the interests therein of the surviving spouse and of the deceased spouse, as well as the separate property of the deceased spouse. Such executor or administrator shall have the same rights, powers, and duties with respect to the administration and disposition of such community property, real and personal, as with respect to the separate property of the deceased spouse. All of the provisions of Act No. 288 of the Public Acts of 1939, as amended, with respect to the administration and disposition of property, real and personal, included in estates, shall be applicable with respect to such community property as well as with respect to such separate property. The probate court having jurisdiction of the estate of the deceased spouse shall determine whether and to what extent property being so administered constitutes separate property of the deceased spouse or community property and shall also determine whether and to what extent property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship, constitutes separate property of the survivor or community property. Such determination shall be made upon application of the executor or administrator, the surviving spouse, or any other interested person, after such notice to the surviving spouse and any other interested person as the court may direct, and, in addition thereto, in any case where creditors of the estate have not yet been determined, notice shall be given as provided for in Act No. 288 of the Public Acts of 1939, as amended. Upon the making of such determination, the court shall enter an order in accordance therewith, including such directions to the executor or administrator and to the surviving spouse as to the execution and delivery of any conveyances, transfers, waivers, or releases as shall be appropriate to carry out the terms thereof, so that all property which constitutes community property shall be subject to administration by the executor or administrator and that which constitutes separate property of the surviving spouse shall be free from such administration, and all of the provisions of Act No. 288 of the Public Acts of 1939, as amended, which are applicable with respect to community property standing in the name of the deceased spouse, as hereinbefore provided, shall likewise be applicable with respect to all community property so subjected to administration by such executor or administrator.

(c) In the order for and at the time of the determination of claims, such court shall also determine whether and to what extent claims and administration expenses are payable out of community property or out of separate property of the deceased spouse and those payable out of community property shall be charged equally against the half of the community property which belongs to the survivor and the half which passes in accordance with testamentary disposition of or to the heirs and distributees of the deceased spouse. No estate, inheritance, succession, or similar taxes payable by reason of the transfer upon the death of the deceased spouse of the interest of such spouse in community property shall be charged against the half of the community property which belongs to the surviving spouse.

(d) When all claims and administration expenses for which the community property is liable have been fully satisfied, or appropriate provision has been made for their satisfaction, the court shall enter an order

directing the executor or administrator to execute and deliver such instruments as shall be appropriate to transfer and convey 1/2 of the remainder of the community property to the surviving spouse and thereafter the interest of the surviving spouse in such property shall be that of a tenant in common. The probate court shall have authority to conduct any further hearing and to make any further determination which shall be incidental or necessary to carrying out the provisions of this act.

(e) Notwithstanding any other provision of this act, any other person may rely, and shall be fully protected in so doing, upon the right of the surviving spouse to receive, manage, control, dispose of, or otherwise deal with property standing in the name of the surviving spouse, or standing in the names of both the surviving spouse and the deceased spouse in such manner that by law, but for the provisions of this act, the surviving spouse would succeed thereto by reason of survivorship.

History: 1947, Act 317, Imd. Eff. July 1, 1947;—CL 1948, 557.213.

Compiler's note: For provisions of Act 288 of 1939, referred to in this section, see § 701.1 et seq.
This act was repealed by § 557.251, subject to the saving provisions contained in § 557.252 et seq.